

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

MEMORANDUM & ORDER

v.

03-CR-929 (NGG)

VINCENT BASCIANO, and
PATRICK DEFILIPPO,

Defendants.

-----X
GARAUFIS, United States District Judge.

On Monday, March 27, 2006, the United States (“Government”) delivered materials to the defendants Vincent Basciano (“Basciano”) and Patrick DeFilippo (“DeFilippo”) (collectively “Defendants”) pursuant to 18 U.S.C. § 3500 (“3500 materials”). Although the Government provided these materials in a timely manner for Kevin Guiland, the witness to whom it claims the materials are related, Basciano asserts that the material is 3500 material for Dominick Cicale, who was already on cross-examination by Basciano’s counsel when the material was turned over.

Without reaching the question of whether or not the materials produced are 3500 material for Dominick Cicale, the court notes that the trial was recessed on Tuesday, March 28th and Wednesday, March 29th. As Dominick Cicale is still on cross-examination by counsel for Basciano (to be followed by cross by counsel for DeFilippo), this adjournment has allowed Defendants ample time to review the material. Even if the materials are deemed 3500 material for Dominick Cicale, this ensures that Defendants’ rights under § 3500 are not violated. See, e.g., United States v. Holmes, 722 F.2d 37, 40 (4th Cir. 1983).

The Government is again reminded of its obligations under 18 U.S.C. § 3500. The court will not look kindly on delays that may result from the Government's inattention to its ongoing discovery obligations.

SO ORDERED.

Dated: March 30, 2006
Brooklyn, N.Y.

/s/
Nicholas G. Garaufis
United States District Judge